

DEC 13 2006

60,469-253; OT-5210 LAB

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Miller
Serial No.: 10/565,382
Filed: 1/20/2006
Art Unit: 3654
Examiner: Pico, Eric E.
Title: Elevator Assembly With Extendable Sill

Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This is responsive to the Office Action mailed on November 28, 2006. Applicant hereby provisionally elects Species A, claims 1-6, 8-12, and 14-24. This election is made with traverse.

The Examiner has stated, "The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Species A-E provide different solution for a locking mechanism." Applicant respectfully traverses the examiner's assertion.

Because this application is a national filing from a PCT application, PCT Rules 13.1 to 13.4 and MPEP §189.03(d) must be followed. Accordingly, imposing a restriction requirement requires listing different groups of claims and explaining that each group of claims lacks unity of invention with the other groups by specifically describing the unique special technical feature in each group. The examiner states he is following unity of invention requirements, however, applicant notes that examiner has cited MPEP 809.02(a), which does not apply to the present application. Additionally, applicant notes that the examiner has cited MPEP § 1.141, which is also improper.

The proper rule is 37 CFR § 1.499. Further, under PCT Rules 13.1 and 13.2, a group of inventions is considered linked to form a general inventive concept where there is a technical

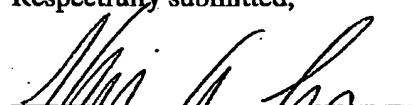
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relationship among the inventions that involves at least one common or corresponding technical feature. The administrative instructions under the PCT (see MPEP Appendix A1) explain, "Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect to any of the claims that depend on the independent claims. In particular, it does not matter if the dependent claim itself contains a further invention."

In this case, the special technical feature is an extendable sill that moves from a retracted position to an extended position when the elevator door is initially aligned with a landing door. The application includes one independent apparatus claim and one independent method claim. This special technical feature is found in both independent claims. The Examiner has not made any attempt to explain how the special technical feature does not define over the prior art. In order for a restriction requirement to be imposed in this application, the Examiner must perform an examination and cite to the prior art that would make the claims not patentable. Without that, the restriction requirement is baseless and must be withdrawn.

Applicant respectfully requests reconsideration and also requests that the Examiner withdraw the election requirement. Examination of all claims is required.

Respectfully submitted,



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Dated: December 13, 2006

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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on December 13, 2006.


Laura Combs